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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BAKER + HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304				
			EXAMINER SORKIN, DAVID L	
			ART UNIT 1723	PAPER NUMBER

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,144

Applicant(s)

ENGEL, DAVID

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-62 is/are pending in the application.
- 4a) Of the above claim(s) 58-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34,35 and 38-57 is/are rejected.
- 7) ☒ Claim(s) 36 and 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 58-62 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a method of covering previously non-elected without traverse.

Claim Objections

2. Periods should be added to the end of claims 42, 47 and 55.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 42-57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

5. In claim 42, there is lack of antecedent basis for "the cylindrical covers". As "covering means" is also recited in the claim, it is unclear if section 112, sixth paragraph is being invoked. Also, it is unclear if the claim is meant to actually require "covers", since the specification only indicates that a single cover is included in the apparatus.

6. Claim 50 is render indefinite by the phrase "A cover apparatus a mixer". It is unclear what elements mentioned in the claim are actually required and which are only being mentioned with regard to an intended use of the claimed structure. Particularly, it is unclear if the "mixer", "motor assembly", "seal pedestal" and "speed reducer" are required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 50-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Bratt (US 4,744,900). Bratt ('900) discloses a cover apparatus comprising first and second flanges (22); a cylindrical cover (24), that has an inner surface that defines an inner diameter; and first and second elastomeric rings disposed between the first and second flanges and the inner surface of the cover to support the cover; wherein the first and second flanges and the cylindrical wall are all capable of remaining stationary with respect to a seal pedestal. The first flange comprises a shoulder that supports the first elastomeric ring having an outer diameter of the flange being less than the inner diameter of the cover, with the cover extending over the flange (see Fig. 1). The second flange comprises a shoulder with a projection of the flange having an outer diameter greater than the outside diameter of the cover, so that the cover is restrained from axial movement in one direction by the flange (see Fig. 1). The cover may be stainless steel (see col. 2, line 61).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Bratt (US 4,744,900). The apparatus of Bratt ('900) was discussed above with regard to claim 50. Bratt ('900) does not expressly state that the cover is substantially supported by the o-rings or that the o-rings are made of rubber. However, the purpose of the o-rings, to make a seal, would have suggested these features to one of ordinary skill in the art.

11. Claims 34, 35, 38-43, 46-51 and 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US 1,521,104) in view of Robinson, Jr. et al. (US 5,447,078). Jones ('104) discloses a drive assembly (which includes a cover apparatus) comprising a concentric speed reducer having a first end and second (see Fig. 1); a first flange (20 or a portion thereof) at the first end; a second flange (21 or a portion thereof) at the second end; and cylindrical cover (17) that has an inner surface that defines an inner diameter and substantially surrounds the speed reducer and substantially extends from the first end to the second end; wherein the first and second flanges and the cylindrical cover are all capable of remaining stationary with respect to an unclaimed element such as a seal pedestal. First and second elastomeric ring are not disclosed. Robinson ('078) teaches in a speed reducer gear housing "When using a plurality of elements to form the housing, preferably O-rings are incorporated into the inner connection of the pieces to ensure liquid resistance". As the housing of Jones ('104) has three pieces (17,20,21) it would have been obvious to one of ordinary skill in the art to have provide a first o-ring between 20 and 17 and a second o-ring

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between 21 and 17 to achieve the liquid resistance advantage taught by Robinson ('078). Disclosure by Jones ('104) on page 2 lines 15-31 of filling the housing with oil would have especially motivated would of ordinary skill in the art to have made the housing liquid tight. The first flange comprises a shoulder that supports the first elastomeric ring, having an outer diameter of the first flange being less than the inner diameter of the cover (see Fig. 1). It would have been obvious to one of ordinary skill in the art to have made the cover of stainless steel to resist corrosion. While the references do not expressly state that the cover is substantially supported by the o-rings or that the o-rings are made of rubber, the purpose of the o-rings, to make a seal, would have suggested these features to one of ordinary skill in the art. The O-rings taught by Robinson are rubber (see col. 3, lines 41-44).

Allowable Subject Matter

12. Claims 36 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 44 and 45 would be allowable if rewritten to overcome the corresponding rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments are moot due to the new grounds for rejection of the new claims.

Conclusion

15. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sorkin

David L. Sorkin
Primary Examiner
Art Unit 1723